

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA, : Docket#23-CR-16(JHR)  
Plaintiff, :  
-against- :  
CHARLES MCGONIGAL, : New York, New York  
January 23, 2023  
Defendant.

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PROCEEDINGS BEFORE  
THE HONORABLE SARAH L. CAVE  
UNITED STATES MAGISTRATE

APPEARANCES:

For Plaintiff: UNITED STATES ATTORNEY'S OFFICE  
SOUTHERN DISTRICT OF NEW YORK  
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<u>Witness</u>	<u>Direct</u>	<u>Cross</u>	<u>Re-</u> <u>Direct</u>	<u>Re-</u> <u>Cross</u>
None				

E X H I B I T S

<u>Exhibit</u> <u>Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir</u> <u>Dire</u>
None				

1 THE CLERK: Your Honor, this is in the  
2 matter of United States VS. Charles McGonigal,  
3 23-CR-16.

4 Counsel, please state your appearance for  
5 the record.

6 MR. WIKSTROM: Good afternoon, Your Honor.  
7 Derek Wikstrom for the Government. And I'm joined  
8 by Assistant United States Attorney Hagan Scott from  
9 my office. Good afternoon.

10 THE COURT: All right. Good afternoon.

11 MR. DUCHARME: Good afternoon, Your Honor.  
12 For Mr. McGonigal, Seth DuCharme, and I'm joined by  
13 my colleague Meagan Maloney.

14 THE COURT: Okay. Good afternoon to both  
15 of you. Good afternoon, Mr. McGonigal. I'm  
16 Magistrate Judge Cave. Nice to meet you.

17 THE DEFENDANT: Good afternoon, Your Honor.

18 THE COURT: All right. Mr. Wikstrom, may I  
19 have the date and time of arrest, please?

20 MR. WIKSTROM: Yes, Your Honor. The date  
21 and time of arrest was Saturday, January 21, at  
22 approximately 3:15 p.m.

23 THE COURT: Okay. Thank you very much.

24 So, Mr. McGonigal, you're here today  
25 because you're charged with certain crimes in an

1 indictment, and the purpose of today's proceeding is  
2 to advise you of certain rights that you have,  
3 inform you of the charges against you, consider  
4 whether counsel should be appointed, and decide  
5 under what conditions, if any, you should be  
6 released pending trial.

7 I'll first explain certain constitutional  
8 rights that you have. You have the right to remain  
9 silent. You're not required to make any statements.  
10 Even if you've already made statements to the  
11 authorities, you do not need to make any further  
12 statements. Any statements that you do make can be  
13 used against you. You have the right to be  
14 released, either conditionally or unconditionally,  
15 pending trial, unless I find that there are no  
16 conditions that would reasonably assure your  
17 presence at future court appearances and the safety  
18 of the community. If you're not a US citizen, you  
19 have the right to request that a government attorney  
20 or a law enforcement official notify a counselor  
21 officer from your country of origin that you've been  
22 arrested. In some cases, a treaty or other  
23 agreement may require the United States Government  
24 to give that notice, whether you request it or not.  
25 You have the right to be represented by an attorney

1 during all court proceedings, including this one,  
2 and during our questioning by the authorities. You  
3 have the right to hire your own attorney. If you  
4 cannot afford an attorney, the Court can appoint one  
5 to represent you.

6 Do you understand all the rights I've just  
7 described, sir?

8 THE DEFENDANT: I do, Your Honor.

9 THE COURT: Thank you. And I understand,  
10 Mr. Wikstrom, we also have a 5(c)(3) affidavit.  
11 Does Mr. McGonigal and his counsel, do they have a  
12 copy of that as well?

13 MR. WIKSTROM: Yes, I emailed it to counsel  
14 this afternoon, Your Honor.

15 THE COURT: Okay. You have that, Mr.  
16 DuCharme?

17 MR. DUCHARME: We do, Your Honor.

18 THE COURT: Okay. I think we'll talk about  
19 it. We'll leave that to the end, how we'll deal  
20 with that.

21 So as far as the indictment that was issued  
22 by a grand jury of this district, the indictment  
23 charges you with certain offenses.

24 In Count 1, the indictment charges that  
25 from the spring of 2021 until November 2021, you

1       conspired to violate the International Emergency  
2       Economic Powers Act. And the object of that  
3       conspiracy was to violate a license, order,  
4       regulation or prohibition that was issued under that  
5       act. In violation of 50 USC § 1705, various  
6       executive orders and 31 CFR § 589.21.

7               In Count 2, the indictment charges that  
8       from the spring of 2021 until November 2021 you made  
9       and received a contribution of funds, goods or  
10      services to a specifically designated national under  
11      the International Emergency Economic Powers Act in  
12      violation of 50 USC § 1705, several executive orders  
13      31 CFR § 589.21, and 18 USC § 2.

14             Count 3 of the indictment charges that from  
15      August 2021 until November 2021 you conspired to  
16      commit money laundering of the funds derived from  
17      the other violations of the act, in violations of  
18      violation of 18 USC § 1956(a)(1)(B)(i) and (H).

19             And finally, the indictment charges in  
20      Count 4, that from the spring of 2021 until November  
21      2021, you caused the specifically -- a specifically  
22      designated national to transfer funds to you through  
23      a Russian bank, a Cypress corporation and a New  
24      Jersey corporation to conceal the origin of those  
25      funds in violation of 18 USC § 1956(a)(1)(B)(i) and

1 (ii).

2 Mr. DuCharme, do you have a copy of the  
3 indictment?

4 MR. DUCHARME: I do, Your Honor.

5 THE COURT: Okay. And have you reviewed it  
6 with Mr. McGonigal?

7 MR. DUCHARME: Yes, Your Honor.

8 THE COURT: Okay. Does he waive a full  
9 public reading of the indictment?

10 MR. DUCHARME: He does, Your Honor.

11 THE COURT: Okay. And I understand that  
12 Judge Rearden has also referred this case for  
13 arraignment. Is Mr. McGonigal prepared to enter a  
14 plea today?

15 MR. DUCHARME: He is, Your Honor.

16 THE COURT: Okay. And what plea is that?

17 MR. DUCHARME: Not guilty.

18 THE COURT: Okay. The Court will enter a  
19 not guilty plea on your behalf, Mr. McGonigal. And  
20 the record will reflect that Mr. McGonigal has been  
21 arraigned.

22 Mr. Wikstrom, I direct the prosecution to  
23 comply with its obligation under Brady vs. Maryland  
24 and its progeny to disclose to the defense all  
25 information, whether admissible or not, that is

1 favorable to Mr. McGonigal, material, either to  
2 guilt or to punishment and known to the prosecution.  
3 Possible consequences for noncompliance may include  
4 dismissal of individual charges or the entire case,  
5 exclusion of evidence, and professional discipline  
6 or court sanction on the responsible attorneys.  
7 After this proceeding, I will enter a written order  
8 that more fully describes this obligation and the  
9 possible consequences of failing to meet it and  
10 direct the prosecution to review and comply with  
11 that order.

12 Does the prosecution confirm that it  
13 understands these obligations and will fulfill them?

14 MR. WIKSTROM: Yes, Your Honor.

15 THE COURT: Okay. Thank you.

16 And while you're up, what is the  
17 Government's position as to bail, detention or  
18 release?

19 MR. WIKSTROM: Your Honor, we've begun  
20 discussing with defense counsel a proposed bail  
21 package.

22 THE COURT: Okay.

23 MR. WIKSTROM: The Government's proposal  
24 would be that Mr. McGonigal be released on a  
25 \$500,000 personal recognizance bond to be cosigned



1 by two financially responsible persons with pretrial  
2 supervision as directed, travel restricted to the  
3 continental United States with permission from  
4 pretrial services for any such travel outside of the  
5 Southern or Eastern Districts of New York. A  
6 requirement that Mr. McGonigal surrender all travel  
7 documents and make no new applications for such  
8 documents. Prohibition on Mr. McGonigal opening any  
9 new financial accounts or lines of credit without  
10 pretrial services advanced permission. And a  
11 prohibition on contact with defendant victims or  
12 witnesses unless in the presence of counsel.

13 THE COURT: Okay. All right. Thank you.

14 Mr. DuCharme, do you have a reaction to  
15 those conditions?

16 MR. DUCHARME: I do. It's a favorable one,  
17 Your Honor. Essentially we're in agreement, I think  
18 in terms of the package. We have in court today two  
19 financially responsible people who the Government  
20 has an opportunity to interview.

21 You know, the nature of Mr. McGonigal's  
22 work sometimes involves international travel. We're  
23 not asking for that today.

24 THE COURT: Okay.

25 MR. DUCHARME: If that becomes important to

1 his work, we'll inform the Government and seek a  
2 bail modification to permit work-related travel at  
3 that time. But right now, I think these conditions  
4 are acceptable to the defense.

5 THE COURT: Okay. Just give me one second.

6 MR. WIKSTROM: Your Honor, may I have just  
7 one moment to confer --

8 THE COURT: Yes, please do.

9 MR. WIKSTROM: Thank, Your Honor.

10 THE COURT: Okay. Just give me one moment.  
11 Any changes based on those discussions? Okay.

12 MR. DUCHARME: No, Your Honor.

13 THE COURT: All right.

14 Based on my review of the indictment, the  
15 pretrial services report, and the agreement of  
16 counsel, I will accept the bail package that the  
17 parties have proposed.

18 So, Mr. McGonigal, you'll be released on  
19 your signature on a \$500,000 personal recognizance  
20 bond. There must be two financially responsible  
21 persons who cosign that bond. You'll be subject to  
22 Pretrial Services supervision as directed. Your  
23 travel is limited to the continental United States.  
24 To travel outside either the Southern or the Eastern  
25 Districts of New York, you'll need to get the

1 permission of pretrial services in advance. I  
2 believe -- I thought I saw that you had already  
3 signed your -- surrendered your passport, but you  
4 may not make any new applications for new travel  
5 documents. You may not open any new financial  
6 accounts or lines of credit without prior approval  
7 by pretrial services, and you may not have any  
8 contact with any codefendants, victims or witnesses  
9 unless in the presence of counsel.

10 Let me just stop there. Mr. McGonigal, do  
11 you understand the conditions I've just set?

12 THE DEFENDANT: I do, Your Honor.

13 THE COURT: Thank you. Let me just warn  
14 you, sir, if you fail to appear in court as  
15 required, or if you violate any of the conditions of  
16 your release, a warrant will be issued for your  
17 arrest. You and anyone who signed the bond will  
18 each be responsible for paying the full amount of  
19 \$500,000, and you may be charged with a separate  
20 crime of bail jumping, which can mean additional  
21 jail time and/or a fine.

22 In addition, if you commit a new offense  
23 while you're released, in addition to the sentence  
24 for that offense, you'd be sentenced to an  
25 additional term of imprisonment of not more than ten

1 years if the offense is a felony, or not more than  
2 one year if the offense is a misdemeanor and that  
3 term of imprisonment is executed after any other  
4 sentence of imprisonment is completed.

5 While you're awaiting trial, I must warn  
6 you not to have any contact with or engage in any  
7 intimidation of potential or designated witnesses or  
8 jurors, not to engage in any intimidation of any  
9 court officer, and not to engage in any conduct that  
10 would obstruct any investigation by law enforcement.

11 If you don't agree with my decision, you do  
12 have the right to appeal it.

13 Do you understand the warnings I've just  
14 given you, sir?

15 THE DEFENDANT: I do, Your Honor.

16 THE COURT: Thank you. All right.

17 Now, with respect to the 5(c)(3) and the  
18 charges out of the District of Columbia, is there a  
19 date for any proceedings in that case that's been  
20 set yet?

21 MR. WIKSTROM: I understand that a date  
22 hasn't been set, but we were asked by the folks  
23 responsible for that case in the District of  
24 Columbia to request that the Court set down a date  
25 for Wednesday. And I understand from speaking with

1 Mr. DuCharme that that will be a remote appearance.

2 THE COURT: Okay. So this Wednesday the  
3 25th?

4 MR. WIKSTROM: Yes, Your Honor.

5 THE COURT: Okay. Do you have the time for  
6 that?

7 MR. WIKSTROM: I do not.

8 THE COURT: Okay. Do you happen to know,  
9 Mr. DuCharme?

10 MR. DUCHARME: I don't, Your Honor. I've  
11 inquired a number of times to the prosecutor in DC.  
12 It is accurate that I was told it was going to be  
13 virtual, but I don't have a time or date.

14 THE COURT: Okay. I think also, just in  
15 light of -- I'm just going to make one additional  
16 modification to the bail conditions, that he can  
17 travel to the District of Columbia for purposes of  
18 court appearances in that case. Obviously, he  
19 should let pretrial services know if he has to, but  
20 that way you don't have to come and ask the Court  
21 for permission for any court appearances for that  
22 case. Okay?

23 MR. WIKSTROM: Thank you. No objection to  
24 that.

25 THE COURT: Okay. Is there anything else

1 with respect to the 5(c)(3) that you'd like me to  
2 cover today?

3 MR. WIKSTROM: I believe he needs to  
4 formally waive identity and that the Court needs to  
5 advise him about the terms of Rule 20.

6 THE COURT: Okay.

7 MR. WIKSTROM: Thank you.

8 MR. DUCHARME: There's not a question  
9 there.

10 THE COURT: Okay. So just again to  
11 confirm, Mr. DuCharme, you have a copy of the  
12 5(c)(3) affidavit from the District of Columbia as  
13 well as the charging document in that case?

14 MR. DUCHARME: Yes, Your Honor. I received  
15 both by email.

16 THE COURT: Okay. So, Mr. McGonigal, you  
17 have with respect to the proceeding in the District  
18 of Columbia the right to what's called an identity  
19 hearing, which is a hearing on the issue of whether  
20 you're the person named in the warrant and the  
21 underlying documents, you have the right to waive  
22 that hearing. As I understand that your counsel has  
23 waived that right on your behalf. Is that right,  
24 sir?

25 THE DEFENDANT: Yes, Your Honor.

1           THE COURT:   Okay.   And the conditions that  
2   I'm setting with respect to this case apply unless  
3   and until the judge in that case does something.  
4   The conditions that I've set should apply there.  
5   And I'll also direct you to report to that Court.  
6   It sounds like there's a proceeding set for this  
7   coming Wednesday, to report before the judge in that  
8   case.

9           Okay.   Anything else then, Mr. Wikstrom?

10          MR. WIKSTROM:   Not with respect to the  
11   5(c)(3), Your Honor.

12          THE COURT:   Okay.

13          MR. WIKSTROM:   We do have one application  
14   with respect to the indictment in this district.

15          THE COURT:   Okay.

16          MR. WIKSTROM:   And that's an application to  
17   exclude time, with such exclusion not to exceed two  
18   weeks, to allow the Government to begin producing  
19   and the defense to begin reviewing discovery in this  
20   case.

21          THE COURT:   Okay.

22          MR. WIKSTROM:   And allow us to set a date  
23   before the district judge for a first status  
24   conference.

25          THE COURT:   Okay.   Do you wish to be heard,

1 Mr. DuCharme?

2 MR. DUCHARME: I mean, Your Honor, yeah.  
3 We don't oppose excluding two weeks if that's going  
4 to give us time to review discovery. That's fine.  
5 To the extent that's in the interest of justice, we  
6 have no objection to that.

7 THE COURT: Okay. All right. So two weeks  
8 from today is February 6. So I will grant the  
9 exclusion because I find that the ends of justice  
10 outweigh the best interests of the public and Mr.  
11 McGonigal in a speedy trial based on the need to  
12 exchange discovery and arrange a videoconference in  
13 front of Judge Rearden. So time is excluded through  
14 February 6.

15 Okay. Anything further, Mr. Wikstrom?

16 MR. WIKSTROM: No, Your Honor. Thank you.

17 THE COURT: Mr. DuCharme?

18 MR. DUCHARME: Nothing from the defense.  
19 Thank you, Your Honor.

20 THE COURT: Thank you. Thank you, Mr.  
21 McGonigal.

22 THE DEFENDANT: Thank you, Your Honor.

23 THE COURT: We're adjourned.

24 C E R T I F I C A T E

25



1 I, Marissa Mignano, certify that the foregoing  
2 transcript of proceedings in the case of  
3 UNITED STATES OF AMERICA, v. CHARLES McGONIGAL,  
4 Docket #23-CR-16(JHR), was  
5 prepared using digital transcription software and is  
6 a true and accurate record of the proceedings.

7  
8  
9 Signature Marissa Mignano

10 Marissa Mignano

11  
12 Date: February 2, 2023  
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